

The March 25, 2014 meeting of the Walpole Zoning Board of Appeals was held in the Main Meeting Room of Town Hall.

Vice Chairman James Stanton called the meeting to order at 7:02 P.M. with the following members present:

Susanne Murphy, Chairman (not present)
James M. Stanton, Vice Chairman
Ted Case, Member (not present)
James S. DeCelle, Member

Matthew Zuker, Associate member

Also present:
Ilana Quirk, Town Counsel

7:00 p.m. – Barberrry Homes, LLC – Case #21-13 (cont'd from 3/5/14) (Stanton, Case, DeCelle, Zuker)

Mr. Stanton read the public hearing notice for **BARBERRY HOMES, LLC, Case #21-13**, with respect to property located at 272 Moosehill Road, East Walpole and shown on the Assessors Map 36 and Lot Nos. 66, 66-1, 62, Residence A Zone.

The application is for:

A Comprehensive Permit under MGL Ch. 40B to allow construction of 174 unit apartment project containing 25% affordable units on a parcel of land containing 14.33 acres.

The applicant was not present for the hearing.

Mr. Stanton said as you can see the Board consists of three members and in a nutshell we have a quorum issue. Two members have resigned, and the Chairman has recused herself. As Vice Chairman, I will act as Chairman for this case. At the last hearing, we talked about a Peer Review consultant, and it is my understanding that a peer review has been completed and they have submitted a report. As there is no quorum, we asked them not to be here. We will re-advertise and repost the hearing on this application and hopefully have two new members on the Board by the next hearing date. Two individuals will appear before the Board of Selectmen next week for appointment to this Board.

This hearing will be continued to April 17 and we should have five people sitting here to hear the case. At that time, we will hear from the peer review consultant. There have been hearings were the residents have asked questions and we will ask you to come back and restate those concerns. It is an awkward situation as the applicant will not appear here. What we will do as a board is to go forward with the peer review and give the application due diligence and take your input.

Town Counsel Quirk explained that it is a five-member board and a quorum is three members. At the last hearing, one member here tonight was not present and therefore you only have two members that have attended all the hearings. The town did not adopt the Mullen Rule. Therefore, the Board will re-advertise and reopen a new hearing to go through testimony.

Mr. Stanton opened the hearing to the public if anyone wishes to ask questions or has comments.

Mr. Brian Atkinson of 301 Moosehill Road said that Ms. Susanne Murphy did not divulge here a relationship with the president of Barberry Homes. He questioned the Board members if they have any type of relationship with the owners of Barberry Homes LLC. Do you have any family, friends with that Company?

Mr. Stanton stated no; Mr. Decelle stated no; and Mr. Zuker stated no.

Mr. Zuker said to the audience that he understands the frustration they have and that they ask lot of good questions. Those questions need to be answered and the best thing we can for the Town and residents is to try to deal with the situation. Mr. Zuker also said I do understand the questions you have. I fully understand where everyone is coming from.

Ms. Angela Moore of 237 Moosehill Road inquired about the timeline for the next litigation activities which will have occurred prior to the 17th. Isn't housing court the end of the month, and then land court and then the individual case?

Town Counsel Quirk explained there are three pieces of litigation. There is the Land Court Case, the case before the Housing Appeals Committee and the private case in Superior Court. The exchange of motions at the housing appeals court is a process which will probably not be done until May. The earliest Land court date is mid-July. I do not see them over by April 17th. There may be some update but probably not a final resolution to them.

Mr. Scot Curran of 261 Moosehill Road asked about any other legal standpoints since we last met?

Attorney Quirk responded that there was a status conference at the Land Court, and the Land Court has another status conference on April 11th. Barberry Homes, LLC has filed a dismissal request. The earliest to hear motions is mid-July because of their calendar.

A motion was made by Mr. Stanton, seconded by Mr. Zuker, to continue the hearing to Thursday, April 17, 2014 at 7:00 p.m in the Main Meeting Room.

The vote was **3-0-0 in favor**. (Stanton, DeCelle, Zuker voting)

Mr. Stanton thanked the audience for coming out.

A motion was made by Mr. Stanton, seconded by Mr. Zuker, to adjourn the meeting at 7:10 p.m.

The vote was **3-0-0 in favor**. (Stanton, DeCelle, Zuker voting)

Craig W. Hiltz
Clerk

sm

Minutes were approved on June 25, 2014.